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10/551,464	10/03/2005	Katharina Keller	00366.000206.	4439
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FITZPATRICK CELLA HARPER & SCINTO			MCMILLAN, JESSICA L	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,464	Applicant(s) KELLER, KATHARINA
	Examiner JESSICA L. MCMILLAN	Art Unit 2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 July 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3,6-23 and 25-30 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-3,6-23 and 25-30 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 03 October 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Claim Objections

Claims 25 and 26 are objected to because of the following informalities: claims 25 and 26 depend on cancelled claim 24. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-9, 14, 15, 25 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Caferro (US 6,139,169).

Regarding claim 1, Caferro disclose a light influencing element for directing light issued from a light source into a predetermined angular range, the light influencing element comprising: a plurality of rib-like raster elements (16) which have reflecting side walls (14; see figure 5) and are arranged in a regular structure; and a transparent base plate (35) having a broad side on which the raster elements are arranged.

Regarding claim 2, Caferro disclose the light influencing element according to claim 1, wherein the raster elements are held together via a side frame (see figures 5 and 6).

Regarding claim 3, Caferro discloses the light influencing element according to claim 1, the raster elements being arranged on a broad surface formed on the broad side (see figure 5).

Regarding claim 6, Caferro discloses the light influencing element according to claim 3, wherein the base plate and the raster elements are formed in one piece (see figure 6).

Regarding claim 7, Caferro discloses the light influencing element according to claim 3, wherein the base plate is glued to the raster elements.

Regarding claim 8, Caferro discloses the light influencing element according to claim 3, wherein on the side of the raster elements opposite to the base plate there is arranged a further transparent plate (34).

Regarding claim 9, Caffero discloses the light influencing element according to claim 1, wherein the raster elements are of a transparent material (see column 3, lines 9-14) and wherein at least the side walls and the end surfaces of the raster elements away from the light source are provided with a reflecting layer.

Regarding claim 14, Caffero discloses the light influencing element according to claim 1, wherein the raster elements are linearly formed and arranged parallel neighbouring one another.

Regarding claim 15, Caffero discloses the light influencing element according to claim 1, wherein the raster elements are linearly formed and arranged in a crossing structure (see figure 6).

Regarding claim 25, Caffero further discloses a light source that is two dimensional (see figure 6).

Regarding claim 29, Caffero discloses a luminaire comprised of: a light source (70) for issuing light; and a light influencing element (16) for directing light issued from the light source into a predetermined angular range, wherein the light influencing element has a plurality of rib-like raster elements which have reflecting side walls (14) and are arranged in a regular structure, and further has a transparent base plate (35) having a broad side on which the raster elements are arranged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-13, 16-23, 26, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caferro (US 6,139,169).

Regarding claims 10 and 11, Caferro discloses the light influencing element according to claim 1, but are silent about the raster elements being injection moulded and being made of PMMA. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the rasters from PMMA, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. One would be

motivated to do so because making the rasters of PMMA would allow the emitting light to be emitted in a desired direction to illuminate a desired area.

Regarding claims 12 and 13, Caferro discloses the light influencing element according to claim 1, but is silent about the spacing between two rasters being double the height of the raster elements and the raster elements having a height of about 1mm and the spacing being about 2mm. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the spacing between two raster elements correspond to about double the height of the raster elements of Caferro and have the raster elements have a height of about 1mm and spacing about 1mm and spacing about 2mm in the element of Caferro since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). One would be motivated to do so because spacing the raster elements in the manner above and having the raster elements have a height of about 1mm and spacing of about 2 mm would achieve a desired illumination from the emitting light.

Regarding claims 16-23, Caferro discloses the light influencing element according to claim 1, but are silent about the raster elements being formed in a ring shape, honeycomb pattern, concentric arrangement, v-shaped cross section, and a ribbed cross section. One of ordinary skill in the art would have been led to the recited ring shape, honeycomb pattern concentric arrangement, v-shaped cross section and ribbed cross section through routine experimentation and optimization. Applicant has not disclosed that the shape is for a particular unobvious purpose, produce an

unexpected result, or are otherwise critical, and it appears *prima facie* that the process would possess utility using another shape. Indeed, it has been held that mere dimensional limitations are *prima facie* obvious absent a disclosure that the limitations are for a particular unobvious purpose, produce an unexpected result, or are otherwise critical. See, for example, *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955); *In re Rinehart*, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976); *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984); *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See also MPEP 2144.04(IV)(B).

Regarding claims 26 and 27, Caferro is silent about the light sources arranged on a side surface of the base plate and the individual light sources arranged with regard to the light influencing element. It would have been obvious to one of ordinary skill in the art at the time of the invention to arrange the light sources of Caferro on a side surface of the base plate and arrange the light source with regard to the light influencing element, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. One would be motivated to do so because arranging the light sources in the above manners would provide a desired illumination.

Regarding claim 30, Caferro discloses a light influencing element for directing the light issued from a light source into a predetermined angular range, wherein the light influencing element has a plurality of rib-like raster elements, which have reflecting side walls (14) and are arranged in a regular structure, but are silent about raster elements

having a maximum height of 5mm. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the raster elements of Caferro have a maximum height of 5mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). One would be motivated to do so because making the height of the raster elements of Plank et al. a maximum of 5mm would yield a desired illumination once light is reflected from the raster elements.

Claims 10 and 28 and rejected under 35 U.S.C. 103(a) as being unpatentable over Caferro (US 6,139,169) in view of Targetti (US 7,090,379 B2).

Regarding claim 10, Caferro discloses the light influencing element according to claim 1, but are silent about the raster element being injection molded. Targetti (US 7,090,379 B2) discloses an anti-dazzle raster element that is formed of a plastic material using injection molding (see abstract of 7,090,379 B2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the raster of Caferro using injection molding as taught by Targetti in order to make the raster resistant and rigid to prevent damage.

Regarding claim 28, Caferro discloses a raster arrangement having a plurality of raster elements arranged neighbouring one another, having reflecting side walls for effecting an anti-dazzling effect of the light emitted from a light source, but are silent about the raster elements being produced by solid material injection molding. Targetti (US 7,090,379 B2) discloses an anti-dazzle raster element that is formed of a plastic material using injection molding (see abstract of 7,090,379 B2). It would have been

obvious to one having ordinary skill in the art at the time the invention was made to form the raster of Caferro using injection molding as taught by Targetti in order to make the raster resistant and rigid to prevent damage.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 6-23, and 25-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA L. MCMILLAN whose telephone number is (571) 272-5510. The examiner can normally be reached on 8:00 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLM
November 20, 2009

/Sandra L. O'Shea/
Supervisory Patent Examiner, Art Unit 2875